

GOVERNMENT

SIKKIM



GAZETTE

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**LOKAYUKTA SIKKIM
GANGTOK**

No.6/LOK/16

Dated: 19.3.2016

NOTIFICATION

In exercise of the powers conferred by sub-section (ii) of section 43 of the Sikkim Lokayukta Act, 2014 (6 of 2014), the Lokayukta, Sikkim hereby makes the following regulations to carry out the provisions of the Act, namely:-

Short title and commencement

1. (1) These regulations may be called the Sikkim Lokayukta Regulations, 2016.
- (2) They shall be deemed to have come into force on the 1st day of August, 2014.

Definitions

2. (1) In these regulations, unless the context otherwise requires,-
 - (a) "Act" means the Sikkim Lokayukta Act, 2014;
 - (b) "Administrative function" means an act or action taken by the Lokayukta in matters relating to either Registry of the Lokayukta or in relation to complaint but does not require the presence of parties in the complaint;
 - (c) "Complainant" means and includes any individuals, association of individuals in any form, society, trust or any juristic entity, who has made a complaint;
 - (d) "Lokayukta" means the Lokayukta, Sikkim, constituted under sub-section(1) of section 3 of the Act;
 - (e) "Quasi-judicial function" means an order or direction issued by Lokayukta in relation to a complaint and would ordinarily require the presence of the public servant in the complaint and the Lokayukta sitting as a bench

to hear the public servant either in person or represented by his lawyers:

Provided that where a matter has been dealt quasi judicially and the public servant were duly represented by his Lawyers or the public servant appeared in person and if subsequently the public servant remained absent, the bench shall be competent to pass necessary order/ orders in the absence of the public servant or his lawyer.

Form and Procedure of Complaint, Preliminary Inquiry/Inquiry, Investigation and Prosecution

(f) "Registry" means the office of the Lokayukta, Sikkim;

(g) "rules" means the Sikkim Lokayukta Rules, 2014.

(2) Words and expressions defined in the Act and used but not defined in these regulations shall have the same meaning respectively assigned to them in the Act and the rules made there under.

3. (1) Every complaint shall be made in the form as may be provided in this behalf:

Provided that where the State Government or any of its department or organization namely public sector undertaking/semi government undertaking or establishment has received any complaint such complaint if it exclusively relates to preliminary inquiry or investigation by the Lokayukta shall be forwarded to the Lokayukta and be accompanied with a written note of the head of the concerned organization/ establishment.

(2) The provisions contained in sub-regulation (1) above, shall not apply where a matter has stood transferred to Lokayukta in terms of provision of section 45 of the Act, such matter may be dealt by the Lokayukta on the basis of orders as may be passed from time to time.

(3) Every complaint, other than a complaint by Government, shall be accompanied by a Bank Receipt of Rs.10/- (Rupees ten) only deposited under major head 0070/ OAS (E) Lokayukta complaint fee. In case of poor individual as defined in section 12 of the Legal Services Authority Act, 1987, such payment is dispensed with;

(4) Where a complaint stood transferred in terms of provision of Section 45 of the Sikkim Lokayukta Act, 2014, the provision of sub-regulation (3) above shall not apply.

(5) Complaint may be filed with the Office of the Registry or be sent through website of the Lokayukta or by post.

- (6) A complaint may be addressed to the Chairperson of the Lokayukta or the Principal Secretary/ Secretary of the Lokayukta.
- (7) On receipt of the complaint, the Registry shall deal with the matter as per the direction of the Lokayukta as may be issued from time to time.
- (8)
 - (a) The Lokayukta for dealing with a particular complaint may from time to time issue such direction as it may deem expedient.
 - (b) Lokayukta may while dealing with the complaint may function quasi-judicially. A quasi-judicial function of Lokayukta shall require the Members of the Lokayukta sitting as a bench, headed by its Chairperson and issuing order or orders as the case may be after hearing the public servant present either in person or represented by his lawyers:

Provided that where a matter has been dealt quasi-judicially and the public servant were duly represented by his Lawyers or the public servant appeared in person and if subsequently the public servant remained absent, the bench shall be competent to pass necessary order / orders in the absence of the public servant or his lawyer and no such order passed by a bench shall be invalid merely by reason of absence of one member due to illness or otherwise.

- (c) Where the Lokayukta has dealt with a complaint which has been heard and dealt by the Members, the verdict on the complaint while being disposed of may be signed and pronounced by the Chairperson and the Members. However, in the event of absence of any Member due to illness or otherwise the Chairperson and the Member may make the pronouncement.
- (9)
 - (a) A bench of the Lokayukta shall ordinarily be constituted consisting of the Chairperson and the Members:

Provided that to deal with the exigencies arising out of absence of a Member due to illness or otherwise, the Chairperson and the other Member present shall be competent to deal with the complaint in such manner as may be considered expedient.

- (b) Notwithstanding anything contained in clause (a) above, the Chairperson shall be competent to decide as to whether a particular matter pending before the

Lokayukta shall be dealt by a single Member or consisting of the Chairperson and a Member or by Chairperson and all the Members.

- (10) The Lokayukta may also discharge its function in relation to a complaint administratively by passing such order/ orders and directing the officials of the Registry to discharge or perform such duties as may be necessary both for the purpose of office administration (Registry) and also to deal with matters related to any complaint pending before Lokayukta.
- (11) While dealing with a complaint, the Registry of the Lokayukta shall take such steps as has been directed by the Lokayukta from time to time sitting as a bench and functioning quasi judicial.
- (12) The Registry shall also act on the basis of administrative order as would be issued by the Lokayukta from time to time:

Provided that no administrative order shall be invalid merely by reason of absence of one of the Members due to illness or otherwise.

- (13) Notwithstanding anything contained in sub-regulation (12) above, the Chairperson shall be competent to pass or issue such direction to the Registry as would be necessary for dealing with office administration of the Lokayukta.
- (14) In the matters relating to any complaint, if other Members are not available immediately, the Chairperson shall be competent to issue such direction as he may deem necessary for speedy disposal of the complaint or issue relating to a complaint subject to it being ratified by other Members of the Lokayukta.

Prosecution by the Lokayukta

- 4. Where the Lokayukta has decided to institute the case or prosecute a person, it may issue such direction as may be necessary from time to time and the prosecutor shall act accordingly in coordination with the registry of the Lokayukta.

Attachment of Property etc.

- 5. Attachment of property shall be dealt in terms with direction of Lokayukta as would be issued from time to time.

Administrative matters

- 6. (1) All administrative matters shall be processed before it is placed with the Chairperson through Principal Secretary/ Secretary, as the case may be. Where the Chairperson is not in station, being away, in such cases, the Principal Secretary/ Secretary, as the case may be, shall ensure that matters requiring approval/order of the Chairperson are placed before him at the place where he is stationed:

Provided that where the Chairperson is outside the country in such cases the matter may be placed after his return to the country.

(2) Where any particular matter needs to be placed before the Chairperson and also other Members of the Lokayukta, Principal Secretary or Secretary as the case may be shall ensure that these matters are placed before the Chairperson and the Members at place/places chosen by the Chairperson for obtaining final order on those matters. In the event the Chairperson and/or the Members are not in station, being away, such matters may be placed before them at the respective place to avoid delay:

Provided that where the Chairperson and the Members are outside the country in such cases the matter may be placed after their return to the country.

(3) The Lokayukta may hold, if it is considered expedient, meeting to discuss administrative matters, where the Chairperson resides or the Members resides to deal with any matter expeditiously.

(4) Where in a complaint pending before Lokayukta, the scrutiny and examination of various documents and papers etc. require utmost confidentiality and needs special attention, in such cases the Chairperson may perform such official scrutiny and the related work from his ordinary residence without taking assistance of official and staff of the Lokayukta.

Legal Section

7. Lokayukta may have a Legal Section which will process complaints etc. as may be received. The Legal Section will also deal with issue of summon, service return report. This Section will also deal with providing certified copies etc. Court Master will be the In-charge of Legal Section.

Establishment Section

8. Lokayukta may have an Establishment Section to deal with all matters relating to personal files, pay fixation, increment, leave, promotion, disciplinary matters etc.

Accounts Section

9. Lokayukta may have an Accounts Section to deal with all matters relating to accounts or financial matters, salaries, TA/ DA etc.

Protocol Section

10. Lokayukta may have a Protocol Section to deal with protocol related matters of the Lokayukta, tour/movement of Chairperson, Members and other officials of the Lokayukta, liaison with other protocol section of different State Governments, sending of information, fax messages of tour/movement of Chairperson and Members,

arrangement of accommodation; transportation as the case may be subject to entitlement etc. Wherever required, the Protocol Section of the Home Department of the State may provide protocol assistance in coordination with the visiting State.

Inquiry Wing and Prosecution Wing

11. Inquiry Wing and Prosecution Wing of the Lokayukta shall deal with such enquiry and prosecution as may be required from time to time.

Library and Reference Section

12. The Lokayukta may have a Library for references to the points of law/judgment of High Courts and Supreme Court or any other court including journals, books and other periodic publications.

Filing of Petitions, applications before the Lokayukta

13. Where a person has been summoned but is unable to appear he/she may be required to submit an application to the authority who has issued the summon explaining the reason for non-appearances and thereafter he/she may be issued a fresh summon for appearance on a new date or may issue such other order as may be considered appropriate :

Provided that the officer issuing the summon shall obtain necessary direction from the Lokayukta in all such matter before taking any action in this regard.

Inherent Power

14. The Lokayukta shall have inherent power to dispense with any of the requirement as provided under the regulation if it is considered expedient.

Residuary procedure

15. Where no specific regulation has been provided or insufficient regulation exist to deal with a matter, in all such cases, the Lokayukta may deal with it either by way of specific notification or direction in this regard as may be issued by Lokayukta from time to time.

**R.K. Purkayastha
Principal Secretary
Lokayukta, Sikkim.**